

REMARKS

I. General

The issues outstanding in the instant application are as follows:

- The restriction requirement remains improperly final; and
- Claims 1-5 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Huang, U.S. Pat. No. 6,318,763 (hereinafter *Huang*) in view of Salyers, U.S. Pat. No. 5,709,413 (hereinafter *Salyers*).

Applicant again respectfully traverses these requirements and rejections and requests reconsideration in light of the amendments presented above and for the reasons presented below. Claims 1-6 are currently pending in this application, with claim 6 withdrawn from consideration.

II. Restriction Requirement

As previously pointed out, the Examiner has already **examined** all of claims 1-6 and opined as to their patentability in an Office Action dated July 6, 2004. The amendments made to claim 6 in Applicant's September 16, 2005 Amendment includes limitations speaking to a collar, similar to limitations already present in the other independent claims. Therefore, Applicant again respectfully asserts that there is no serious burden on the Examiner to **examine** all of the claims, as he has already searched and examined all of the claims and their various limitations. As previously noted M.P.E.P. § 803 requires: "If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions."

Additionally, M.P.E.P. § 811 states:

the examiner should make a proper requirement as early as possible in the prosecution, in the first action if possible, otherwise, as soon as the need for a proper requirement develops. Before making a restriction requirement after the first action on the merits, the examiner will consider whether there will be a serious burden if restriction is not required.

Hence, Applicant respectfully asserts that since, as discussed above, it would not present a serious burden for the Examiner to examine all of the pending claims it was improper for the Examiner to present this restriction so late in the examination of this application.

In light of each of the foregoing defects in the restriction requirements, Applicant again respectfully asserts that the restriction requirement should be withdrawn and that claim 6 should be examined on the merits.

III. Rejections Under 35 U.S.C. § 103

Claims 1-5 stand rejected under 35 U.S.C. § 103(a) as unpatentable over *Huang* in view of *Salyers*. Applicant respectfully traverses these rejections in light of the amendments presented above and for the following reasons. Independent claims 1, 2 and 4 are amended above to clarify that, when staked, the inner periphery extending through said ferrule support portion the collar engages the axial stop ring to limit axial movement.

A. The combination fails to teach all elements of the claims.

As amended, each of independent claims 1, 2 and 4 each recites “said ferrule support portion of said collar staked in such a manner that said inner periphery extending through said ferrule support portion engages said axial stop ring in an axial movement limiting manner.” (Emphasis added.) First, Applicant respectfully points-out that cited Figure 4 of *Huang*, and the text of *Huang*, fails to show, teach or suggest the inner periphery of the locking sleeve contacting or otherwise engaging the indicated stop ring. A careful inspection of Figure 4 (and 3) shows that the inner periphery of locking sleeve 14 is approximately the same diameter as the ridge indicated as the stop ring in *Huang*. Thus, in *Huang* the indicated stop ring would not cooperate with (much less engage) locking sleeve 14 in an axial movement limiting manner, as claimed in each of independent claims 1, 2 and 4. Further, Applicant respectfully points-out that nothing in *Huang* teaches or suggests that locking sleeve 14 is staked, only lower sleeve 15 is discussed as being compressed (crimped).

As previously noted, Applicant also respectfully asserts that the ridge, indicated by the Office Action as teaching the presently claimed axial stop ring, is not a part of any portion of the *Huang* fitting that can be characterized as a collar support portion. Applicant respectfully

asserts that the portion of the Huang fitting that defines the indicated ridge can, at best, be characterized as corresponding to the claimed hose insert portion, as upon assembly, the indicated ridge is spaced apart from the collar and is clearly indicated as acting as a hose stop. Thus, *Huang* also fails to teach at least “said collar support portion including... an axial stop ring,” as recited by independent claims 1, 2 and 4.

Whereas *Huang* fails to teach or suggest “said collar support portion including... an axial stop ring” and/or “said ferrule support portion adapted to be staked in such a manner that said inner periphery extending through said ferrule support portion communicates with said axial stop ring in an axial movement limiting manner” as recited in independent claims 1, 2 and 4, and *Salyers* is not relied on as teaching these elements, Applicant respectfully asserts that independent claims 1, 2 and 4 are patentable over the 35 U.S.C. § 103 rejections of record.

The Office Action Admits that *Huang* fails to disclose the collar support portion including knurling. The Office Action introduces *Salyers* as teaching substitution of knurling 724 for splines 801. However, Applicant respectfully points out that knurling 724 is intended to engage the inner surface of a tube (more analogous to the claimed hose insert portion of the stem of the present invention) and as such the knurling of *Salyers* is not a part of a collar support portion, or the like. Further, as mentioned *Salyers* teaches the interior of a tube engaging the knurling, not inner periphery of a collar, as also claimed. Finally, applicant notes that *Salyers*’ splines 801 are not intended to index with other corresponding splines as taught by *Huang*, but rather are intended to grip the inside of a tube.

Thus, applicant respectfully asserts that the proposed combination of *Huang* and *Salyers* fails to teach or suggest at least a collar support portion including knurling and communication between a an inner periphery of a collar torque communication portion with knurling, as claimed by independent claims 1, 2 and 4. For at least these further reasons Applicant respectfully asserts that independent claims 1, 2 and 4 are further patentable over the 35 U.S.C. § 103 rejections of record.

Claim 3 depends directly from independent claim 2 and claim 5 depends directly from independent claim 4. Thus, each of claims 3 and 5 inherit all elements of respective claims 2 and 4. Therefore, for at least the reasons advanced above in addressing the rejections of claims 2 and 4, each of claims 3 and 5 set forth features and elements not recited by the combination

of *Huang* and *Salyers*. Hence, Applicant respectfully asserts that claims 3 and 5 are also patentable over the 35 U.S.C. § 103 rejections of record.

B. The Office Action does not provide the requisite motivation.

As noted above, in addressing claim 1, the Office Action admits that *Huang* does not teach “the collar support portion including knurling”. The Office Action attempts to cure this deficiency by introducing *Salyers*, which the Office Action alleges to teach substituting knurling 724 for splines 801. The motivation for making the modification was presented as follows:

It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute splines with knurling, so that the tubing is effectively gripped, as taught by *Salyers*.

It is well settled that the fact that references can be combined or modified is not sufficient to establish a prima facie case of obviousness, M.P.E.P. § 2143.01. In this case, as pointed out by the Office Action *Salyers* teaches use of knurling 724 to facilitate grip of tube 64. However, the splines of *Huang* and the knurling of the present claims are employed to communicate with a torque communication portion of a collar, or the like. Further, *Salyers* teaches away from the combination. As pointed out by the Office Action, *Salyers* teaches the use of knurling to grip a tube, whereas in the present invention the knurling is an interface between the stem and the collar. The barbs disclosed and claimed in the present application are used to grip a hose or tube. Thus, there is no motivation to modify *Huang* using the teachings of *Salyers* in the manner proposed by the Office Action. Furthermore, the proposed replacement of the teeth of *Huang* with the knurling of *Salyers* would be a complete supplantation of the teachings of *Huang* and thus impermissibly change the principle of operation of *Huang*, see M.P.E.P. § 2143.01(VI).

Thus, the motivation presented for combining *Huang* and *Salyers* is insufficient and improper and at best merely a statement that the reference can be combined. The mere fact that references can be combined does not render the resultant modification obvious unless the prior art also suggests the desirability of the modification. *In re Mills*, 916 F.2d 680, 16 USPQ.2d 1430 (Fed. Cir. 1990), as cited in M.P.E.P. § 2143.01. Further, no “apparent reason to combine the know elements in the fashion claimed” has been presented as required by *KSR*

Int'l. Co. v. Teleflex, Inc. (See M.P.E.P. §2143.) Resultantly, the rejection of claims 1-5 should be withdrawn for failure to provide the necessary motivation to combine *Huang* and *Salyers*.

VI. Conclusion

For at least the reasons given above, Applicant submits that the restriction requirement should be withdrawn and hence claim 6 should be examined on the merits. Further, Applicant submits that the pending claims distinguish over the prior art of record under 35 U.S.C. § 103. Accordingly, Applicant submits that this application should be found in condition for allowance.

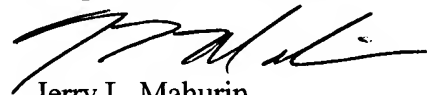
The fees necessary for the accompanying RCE and Petition for a three-month extension of time are dealt with in the RCE and Petition. Applicant believes no further fee is due with this Amendment. However, if any additional fee is due, please charge Deposit Account No. 07-0475, from which the undersigned is authorized to draw.

Applicant respectfully requests that the Examiner call the below listed attorney if the Examiner believes that the attorney can be helpful in resolving any remaining issues or can otherwise be helpful in expediting prosecution of the present application.

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JLM
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Respectfully submitted,



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